

COUNTY OF SAN DIEGO, CALIFORNIA
BOARD OF SUPERVISORS POLICY

Subject

Sexual Harassment Policy

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Purpose

To establish a uniform policy prohibiting sexual harassment or sex discrimination.

Background

California State and Federal laws have mandated employers to implement a policy prohibiting sexual harassment, pursuant to guidelines on sex discrimination issued by the Equal Employment Opportunity Commission and the Department of Fair Employment and Housing. The United States Supreme Court, in its decision in the Meritor Savings vs. Vinson (1986) 477 U.S. 57, and Harris vs. Forklift Systems, Inc. (1993) 114 S. Ct. 367, affirmed that sexual harassment is unlawful discrimination under Title VII. The Supreme Court has given the Equal Employment Opportunity Commission guidelines great deference because they express the will of Congress.

Policy

It is the policy of the Board of Supervisors that the County of San Diego will provide a work environment free of sexual harassment.

A. Definition of Sexual Harassment:

The Federal Equal Employment Opportunity Commission defines sexual harassment in the workplace as unwelcome sexual advances, requests for sexual favors, and other visual, verbal or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual, or (3) such conduct is unwelcome and has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile, or offensive working environment.

B. Examples:

Examples of sexual harassment may include, but are not limited to the following:

1. Suggestive or obscene letters, notes, or invitations.
2. Derogatory comments, such as sexual jokes, remarks, questions, teasing, leering, or gestures.
3. Touching, patting, pinching, impeding or blocking movement.

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4. Threats of physical abuse.
5. Sexually suggestive objects, such as pictures, cartoons, posters, that are offensive to other employees.
6. Re-occurring and unwelcome expressions of affection or requests for dates or any other behaviors of a sexual nature after being informed that such conducts are not welcome.
7. Requesting sexual favors accompanied by reprisal, threat of reprisal, or implied threat of reprisal following a negative response. For example, implying or actually withholding support for an appointment, promotion, or change of assignment; suggesting a poor performance report will be prepared, or suggesting probation will be failed.
8. Offering favors or employment benefits such as promotions, favorable performance evaluations or recommendations; favorable assigned duties or work shifts in exchange for sexual favors.
9. Actual or attempted rape or sexual assault.

C. Current Law:

1. Sexual harassment by a person, whether an employee, supervisor, manager or non-employee who regularly and routinely is present in the work area, may make the employer liable for the acts of such individual.
2. The law requires immediate corrective action by the employer as soon as an employee gives notice, in any form, that sexual harassment is occurring in the work area.
3. The harassment regulated by this law pertains to unwelcome behavior based on sex, within the work area. The work area may extend to non-work places and non-work hours when the harasser continues the behavior.
4. The law does not create liability with regard to mutually acceptable, voluntary reciprocal relationships.
5. Vulgar language that is repetitive and so pervasive as to poison the environment may be unlawful harassment.

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D. Liability:

When sexual harassment occurs, the potential for legal remedies and individual punitive damages are a real threat to the County and/or the harasser. Individuals who engage in harassment may be held personally liable.

The law also prohibits retaliation against a person who has complained about or objected to harassment.

E. Responsibility:

1. The Chief Administrative Officer shall be responsible for implementing and vigorously pursuing this policy to prevent sexual harassment and stop it when it occurs.

2. Department heads shall be responsible for maintaining a harassment-free work environment in all areas under their jurisdiction.

3. It is the policy of the Board of Supervisors that all complaints of sexual harassment should be initiated and resolved at the departmental level, if possible, as described in DHR Policy No. 111. If not resolved at that level, the department should advise the complainant that he/she may file a complaint as described in the County Administrative Manual or may file a complaint with the EEOC/DFEH. Employees should feel free to file a complaint using the process with which they feel most comfortable.

4. California law requires the County to provide Sexual Harassment Prevention training to all supervisory employees every two years, and within six months of an employee assuming a supervisory position.

F. Additional Information:

The Chief Administrative Officer will ensure that all County executives and other officers as necessary are available to provide information and assistance to employees who are dealing with sexual harassment issues. The action to be taken by employees of all levels is defined in DHR Policy No. 111 and in the County Administrative Manual.

Sunset Date

This policy will be reviewed for continuance by 12-31-16.

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Board Action

8-24-82 (5)
7-26-88 (43)
12-12-89 (49)
3-27-90 (47)
11-29-94 (40)
5-19-98 (28)
5-16-06 (16)
12-09-08 (33)
12-08-09 (32)

CAO Reference

1. Chief Administrative Office
2. Office of Internal Affairs